



DEPARTMENT OF TRANSPORTATION

[4910-22-P]

Federal Highway Administration

Federal Transit Administration

[Docket Number: FHWA–2015-0001]

**Notice of Availability of Revised Guidance on the Environmental Review Process
(Section 139) under 23 U.S.C. 139**

AGENCIES: Federal Highway Administration, Federal Transit Administration, DOT.

ACTION: Notice of availability; Request for comments.

SUMMARY: The Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) announce the availability of its revised Section 139 Environmental Review Process guidance (previously referred to as the SAFETEA-LU Environmental Review Process Final Guidance), which was amended to reflect provisions of the Moving Ahead for Progress in the 21st Century Act (MAP-21). The document provides guidance on environmental review process requirements and best management practices for transportation projects funded or approved by the FHWA, FTA, or both agencies. The revisions to the joint guidance reflect the FHWA and FTA's proposed implementation of the MAP-21 changes within their statutory environmental review process requirements, in accordance with the National Environmental Policy Act (NEPA) and other Federal laws. The FHWA and FTA request public comments on the proposed guidance.

DATES: Comments must be received by [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. Late filed comments will be considered to the extent practicable.

ADDRESSES: You may submit comments to Docket No. FHWA-2015-0001 by any of the following methods:

Federal eRulemaking Portal: Go to www.regulations.gov and follow the online instructions for submitting comments.

Mail: Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

Hand Delivery or Courier: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC, between 8:30 a.m. and 4:30 p.m. e.t., Monday through Friday, except Federal holidays.

Fax: (202) 493-2251.

Instructions: You must include the agency name (Federal Highway Administration or Federal Transit Administration) and the Docket Number of this notice at the beginning of your comments. Note that all comments received will be posted without change to www.regulations.gov, including any personal information provided. You may review DOT's complete Privacy Act Statement published in the Federal Register on April 11, 2000 (65 FR 19477).

FOR FURTHER INFORMATION CONTACT: For the FHWA: Neel Vanikar, Office of Project Development and Environmental Review, (202) 366-2068, or Jomar Maldonado, Office of Chief Counsel, (202) 366-1373. For FTA: Chris Van Wyk, Office

of Environmental Programs, (202) 366-1733, or Helen Serassio, Office of Chief Counsel, (202) 366-1974. The FHWA and FTA are located at 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 9:00 a.m. to 5:00 p.m. ET, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

The FHWA and FTA, hereafter referred to as the “Agencies,” are proposing the issuance of revised joint guidance on the environmental review process based on revisions to 23 U.S.C. 139 (Efficient environmental rules for project decisionmaking) by various MAP-21 provisions. The proposed guidance would update and supersede the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) Environmental Review Process Final Guidance issued on November 16, 2006.

The MAP-21 added requirements and refinements to the project development procedures found in 23 U.S.C. 139 (Section 139), which contains statutory requirements supplemental to the process required by NEPA, the Council on Environmental Quality regulations at 40 CFR 1500, and the FHWA/FTA joint environmental regulations at 23 CFR part 771. Section 139 provides the roles of the project sponsor and the lead, participating, and cooperating agencies; sets requirements for coordinating and scheduling agency reviews; identifies the authority of States to use Federal funding to ensure timely environmental reviews; specifies a process for resolving interagency disagreements; and establishes a statute of limitations on claims against transportation projects. The MAP-21 amended Section 139 by emphasizing a framework for setting

deadlines for decisionmaking in the environmental review process; modifying the process for issue resolution and referral; establishing penalties for Federal agencies that do not make a timely decision; and, providing an option for complex projects stalled in the environmental review process to receive technical assistance with a goal of completing the environmental review process (i.e., issuance of a record of decision (ROD)) within 4 years. In addition, MAP-21 mandated the combination of the Final Environmental Impact Statement and ROD into one document under certain circumstances, to the maximum extent practicable, although that process change was not codified in Section 139.

The Agencies request comments on the revised guidance, which is available in the docket (FHWA-2015-0001) and on FHWA's and FTA's MAP-21 Web sites. The Agencies will respond to comments received on the guidance in a second Federal Register notice, to be published after the close of the comment period. That second notice will also announce the availability of final guidance that reflects any changes implemented as a result of comments received.

Authority: 23 U.S.C. 139; Pub. L. 112-141, 126 Stat. 551.

Issued on: February 27, 2015

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